

Office Action Summary

Application No.

10/609,202

Applicant(s)

KNAUERHASE ET AL.

Examiner

Abdullah-Al Kawsar

Art Unit

2195

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/19/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,7,17-19,21,23-25,28 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,7,17-19,21,23-25,28 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06/23/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 09/08/2003.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,202	06/26/2003	Robert C. Knauerhase	42P16779	7336

7590 11/26/2007
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EXAMINER

KAWSAR, ABDULLAH AL

ART UNIT	PAPER NUMBER
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2195

MAIL DATE	DELIVERY MODE
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11/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

1. Claims 1-2, 5, 7, 17-19, 21, 23-25 28 and 30 are pending. Claims 3-4, 6, 8-16, 20, 22, 26-27, 29 are canceled.

Information Disclosure Statement

2. In order to consider the information disclosure statement filed on 01/07/2004 with reference 5 and 7 on sheet 4 applicant is required to resubmit new 1449 with reference 5 and 7 with the copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.
3. The information disclosure statement filed on 09/08/2003 has not been considered by the examiner. In order to be considered by the examiner that information should be placed in the "Related Application Section" at the beginning of the specification with updated status of the application including US Patent or Publication number.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this

subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-2, 5, 7, 17-19, 21, 23-25, 28 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Lim et al.(Lim) US Patent No. 6795966.
6. As per claim 1, Lim teaches the invention as claimed including a method, comprising:
gathering information relating to a processor (col 9, lines 36-45, 50-54);
evaluating the information relating to the processor (col 11, lines 50-60); and
managing a first virtual machine and a second virtual machine via the information, the managing of the first and second virtual machine including suspending the predetermined processing time of the first virtual machine, wherein the suspending of the predetermined processing time includes switching tasks being performed on the first virtual machine to the second virtual machine, wherein the predetermined processing time is allocated to the first virtual machine by a central processing unit to perform the tasks(col 7, lines 7-14).
7. As per claim 2, Lim teaches monitoring the processor (col 9, lines 36-40, 50-54).
8. As per claim 5, Lim teaches the information comprises processor state information having one or more of characteristics of the processor, history of the processor, characteristics first and second virtual machines, history of the first and second virtual machines, and event monitoring data (col 6, lines 40-45).

9. As per claim 7, Lim teaches that the managing of the first and second virtual machines is performed by a virtual machine manager (VMM) comprising a state management unit (col 6, lines 40-46; col 7, lines 7-8)

10. As per claim 17, Lim teaches the invention as claimed including a system, comprising:
a storage medium to store information related to a processor coupled with the storage medium(col 6, lines 53-55; lines 66-67 through col 7, lines 1-2); and

a processor having a virtual machine manager (VMM), the VMM to gather information related to the processor, evaluating the information relating to the processor, and managing a first virtual machine and a second virtual machine via the information, the managing of the first and second virtual machine including suspending the predetermined processing time of the first virtual machine, wherein the suspending of the predetermined processing time includes switching tasks being performed on the first virtual machine to the second virtual machine, wherein the predetermined processing time is allocated to the first virtual machine by a central processing unit to perform the tasks (col 6 lines 24-28, 40-43; col 7, lines 7-14).

11. As per claim 18, Lim teaches that the VMM comprises a state management unit to monitor the processor (col 6, lines 40-52).

12. As per claim 21, Lim teaches that the processor comprises one or more of microprocessors, hyperthreaded processors, digital signal processors, and microcontrollers (col 6, lines 24-26)

13. As per claim 23, Lim teaches that the first and second virtual machines comprise guest software, the guest software having one or more of an operating system and a software application (col 6, lines 30-39; col 7, lines 7-8)

14. As per claims 19 and 28, they are system and computer readable medium claims of claim 5 above. They are therefore rejected under the same rational as claim 5 above.

15. As per claims 18 and 30, they are system and computer readable medium claims of claim 7 above. They are therefore rejected under the same rational as claim 7 above.

16. As per claim 24, it is computer readable medium claim of claim 1 above. It is therefore rejected under the same rational as claim 1 above.

17. As per claim 25, it is computer readable medium claim of claim 2 above. It is therefore rejected under the same rational as claim 2 above.

Response to Argument

18. Applicant's arguments with respect to claims 1-2, 5, 7, 17-19, 21, 23-25, 28 and 30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lee et al. (US Patent No. 6,804,630 B2); Nelson et al. (US Patent No. 6,961,941); Inoue et al. (US Patent No. 5,437,033).

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


21. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdullah-Al Kawsar whose telephone number is 571-270-3169. The examiner can normally be reached on 7:30am to 5:00pm, EST.

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chameli Das can be reached on 571-272-3696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Abdullah Kawsar
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